

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA
WESTERN DIVISION

VANESSA DUNDON, ET AL. on behalf of themselves and all similarly- situated persons, Plaintiffs, v. KYLE KIRCHMEIER, ET AL., Defendants.	No. 1:16-cv-406-DLH-CSM AFFIDAVIT OF RACHEL LEDERMAN, ESQ. IN SUPPORT OF PLAINTIFFS' MOTION PURSUANT TO RULE 56(d)
---	--

I, Rachel Lederman, am an attorney admitted to the Bar of this court and the courts of the State of California. I represent the plaintiffs in this matter.

Plaintiffs have moved, pursuant to Rule 56(d), for discovery should the Court convert Defendants' Motion to Dismiss to a Motion for Summary Judgment.

I certify that this motion has been filed in good faith and that plaintiffs are unable to present facts essential to justify their opposition to a motion for summary judgment, which would be an early filed motion in the absence of discovery.

Essential discovery is needed including related to the veracity and credibility of the currently untested averments in the declarations of individual law enforcement officers; the timing, duration and character of any announcements or warnings issued by the police; the reach of any such warnings or announcements; the information in the possession of officers and command staff at the time decisions were made including the information flowing into and out from the Joint Operations Command Center including any running resume, logs, digital feeds or other information; identification of officers who used force and exploration as to law enforcement's allegations of conduct by individuals justifying actions against all those assembled including at other times; exploration of allegations of conduct by the crowd as unit; the nature and extent of collaboration between the private unlicensed contractor TigerSwan and public law enforcement authorities; information provided or created by TigerSwan influencing or used by law enforcement; infiltration and surveillance of water protectors by TigerSwan and/or law enforcement including whether provocative actions were undertaken by persons in either an undercover or plainclothed capacity; the propriety of use of force, methods of force, and proper use of munitions; defendants' policies and practices, training, supervision and/or discipline; the existence of intent to suppress speech.

Needed discovery will include interrogatories, requests for production of documents, depositions, including Rule 30(b)(6) depositions, and third party subpoenas. The order of discovery will likely proceed with written discovery followed by depositions.

I certify under the penalty of perjury that the foregoing is true and correct. Executed on
April 27, 2018, at Oakland, CA.

/S/

Rachel Lederman